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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/807,561
Filing Date: March 23, 2004
Appellant(s): MARVIT ET AL.

Chad C. Walters
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/7/08 appealing from the Office action mailed 1/15/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal: 10/807,562.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,598,187	Ide et al	01-1997
WO 01/86920	Lapidot	11-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ide et al (US 5,598,187 hereinafter Ide) in view of Lapidot (WO 01/86920).

As to claims 1, 20, Ide discloses a motion controlled handheld device (Figs. 1, 2, 15) comprising:

a gesture database (42 in Fig. 15, col. 14, lines 33-34) maintaining a plurality of gestures, each gesture defined by a motion of the device with respect to a first position of the device;

a gesture mapping database comprising a mapping of each of the gestures to an associated command (42 in Fig. 15, col. 14, lines 35-42);

a motion detection module (motion detectors 30a, 30b) operable to detect motion of the device within three dimensions and to identify components of the motion in relation to the viewable surface;

a display control module having a first mode of motion input operation (pointer function mode in Figs. 1, 2) and a second mode of motion input operation (motion pattern input function mode in Fig. 15);

the display control module operable in the first mode of motion input operation (pointer function mode as disclosed in Figs. 1-3, col. 7, lines 11-29 for example), lines to monitor the motion of the device, to determine a location of the device resulting from the motion, and to modify the current image based on the resulting location of the device as compared to an initial location of the device prior to the motion of the device;

the display control module operable in the second mode of motion input operation (motion pattern input function mode as disclosed in Figs. 15, 16, col. 13, line 40 to col. 14, lines 42 for example) to monitor the motion of the device, to track movement of the handheld device using the motion detection module, the tracked movement identifying a path traveled by the device, to compare the path the gestures to identify a matching gesture, to identify one of the commands associated with the matching gesture, and to modify the current image based on the identified command; and

a mode selection module operable to detect a mode selection trigger and to switch between the first mode of motion input operation and the second mode of motion input operation in response to detecting the mode selection trigger (col.15, lines 39-44, col. 22, lines 20-41).

Ide does not disclose the handheld device comprising a display. However, Lapidot is cited to teach a handheld device similar to Ide. Lapidot teaches a small handheld device with display screen for controlling the information presented in its display (see Fig. 1 and page 1, lines 16-19). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the motion controlled handheld device of Ide to have a display as taught by Lapidot so as to “provide improved hand-held portable devices and a method for conveniently controlling the function of such devices and the presentation of information in their display. The new method improves upon existing methods by reducing the number of keys required to control the device and the information presented in its display, and by making the control simpler and easier to learn and to remember.(page 2, lines 15-22 of Lapidot).

As to claims 2-3, Ide teaches the mode selection trigger comprises a change in a state of the device and the change in the state of the device occurs when the device switches from a first application (Fig. 1) to a second application (Fig. 16).

As to claim 4, Ide teaches the change in the state of the device occurs when the current image switches from a first image (cursor movement in Fig. 1) to a second image (volume control in Fig.16).

As to claim 5, Ide teaches the mode selection modules switches from the first mode to the second mode in response to detecting a first mode selection trigger, and the mode selection modules switches from the second mode to the first mode in response to detecting a second mode selection trigger different than the first mode selection trigger (col. 22, lines 20-41).

As to claim 6, Ide teaches the mode selection trigger comprises one of the gestures (col. 22, lines 31-32).

As to claim 7, Ide teaches the mode selection trigger comprises non-motion related input received using a user interface of the device (col. 22, lines 30-31, 35-41).

As to claim 8, Figs. 1, 5 of Lapidot teaches a motion controlled device having a mode operation (N) is for neutral condition, the use of movements to control functions of the device or its display unit is disabled (this corresponds to the display control module operable in the third mode of operation to disregard the motion of the device).

As to claim 9, Fig. 6 of Lapidot teaches the handheld device comprising three accelerometers operable to detect acceleration along a first, a second and a third axis.

Claims 10-19 which method claims corresponding to the above apparatus claims, are rejected for the same reasons as stated above since such method "steps" are clearly read on by the corresponding "means".

(10) Response to Argument

In response to appellant's argument on pages 12-17 that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Lapidot teaches to "provide improved hand-held portable devices and a method for conveniently controlling the function of such devices and the presentation of information in their display. The new method improves upon existing methods by reducing the number of keys required to control the device and the information presented in its display, and by making the control simpler and easier to learn and to remember (page 2, lines 15-22). Lapidot clearly provided reasons to combine and provide for a display on the remote control device. Therefore, appellant's remarks are not persuasive.

Applicant's remarks on pages 14-17 that "Ide clearly teaches away from any combination that places a monitor on its spatial control device as described in Ide. Ide refers to its input device as a "spatial control mouse" and repeatedly thereafter as a "mouse"" are misleading and not persuasive. Although Ide called his handheld device 1 a "spatial control mouse", the "spatial control mouse" of Ide is not a conventional mouse as alleged by the applicant. Ide's "spatial

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control mouse" not only controls the cursor on a screen of a PC (Fig. 3), it also controls multi functions of a multimedia TV or a computer (e.g. see Figs. 12, 17, 33). Clearly, Ide's "spatial control mouse" is a multi-functions handheld remote controller and not just a mouse as erroneously alleged by applicant. Lapidot teaches a portable hand-held remote controller which is similar to Ide. Page 2, lines 32-35 of Lapidot teaches his device "also relates to hand-held remote control units that are used to control the function of the other devices that are not by themselves portable, such as a TV set, video player or a DVD unit". Thus, to modify the "spatial control mouse" of Ide to have the display screen in the remote controller as taught by Lapidot would have been obvious to one having ordinary skill in the art since a user can control the device while viewing the information presented in its display. Therefore, appellant's remarks are not persuasive.

Appellant's remarks regarding dependent claims on pages 18-19 are not persuasive, see the rejection above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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